

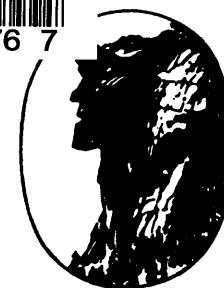
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1984 VOTERS' GUIDE

EXPLAINING AMENDMENTS
PROPOSED BY THE 1983 LEGISLATURE
AND THE
17th CONSTITUTIONAL CONVENTION
TO THE
CONSTITUTION
OF THE
STATE OF NEW HAMPSHIRE

YOU MAY TAKE THIS
GUIDE WITH YOU
TO THE POLLS

**CONSTITUTIONAL AMENDMENTS
TO BE VOTED ON ELECTION DAY
NOVEMBER 6, 1984**

TO THE VOTERS OF NEW HAMPSHIRE:

At the November 6, 1984 election, you will be asked to consider thirteen questions which propose amendments to the New Hampshire Constitution. Amendments to this Constitution may be proposed by the Legislature or by a Constitutional Convention.

Three of the questions are proposed by the 1983 Legislature and ten questions are proposed by the 1984 Constitutional Convention. If two-thirds of the people who vote on any given question vote YES, then the Constitution will be amended as indicated in the question.

This Voters' Guide was prepared at the direction of the President of the Constitutional Convention, the President of the Senate, the Speaker of the House, by the Constitutional Committee on the Voters' Guide, the Office of Legislative Services and Legislative Staff. The funds to print it were appropriated by the Legislature and the Constitutional Convention.

The Guide includes each question exactly as it will appear on the ballot and explains the effect of each proposed amendment.

As you will see, the issues are important and deserve your study and your vote.

The following 10 questions are submitted to the voters by the 1984 Constitutional Convention on the vote indicated following each question.

QUESTION NO. 1

VOTER
ACCESS

Article Affected: Pt. I, Art. 11.

1. Are you in favor of amending the Constitution to provide that voting registration and polling places shall be easily accessible to all qualified persons including disabled and elderly persons?
- Yes ☐
No ☐

AT THE PRESENT TIME:

The Constitution expressly states that all qualified persons shall have the right to vote and that the Legislature shall provide by law for voting by qualified voters who are unable to vote in person because of a physical disability. The Constitution currently is silent on the issue of access for any voter to voter registration and polling place.

IF THE AMENDMENT IS ADOPTED:

While preserving those rights already stated in the Constitution, the Constitution will, in addition, expressly require that all voter registration places and polling places be easily accessible to all qualified voters, including disabled and elderly voters.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 266 Yes, 44 No. (Resolution 63)

QUESTION NO. 2

STATE
FUNDING

New Article: Pt. I, Art. 28-a.

2. Are you in favor of amending the Constitution to prohibit the state from mandating or assigning any new, expanded, or modified programs or responsibilities which require additional local expenditures to any political subdivision, unless such programs or responsibilities are either fully funded by the state or approved for funding by a vote of the local legislative body of the political subdivision?

Yes ☐

No ☐

AT THE PRESENT TIME:

The Constitution does not currently specifically address the subject of state-mandated programs. The state can enact a law establishing a new program or expanding an existing program or responsibility without providing the necessary funding, and the law is binding on all localities, which must provide the money to fund the program.

IF THE AMENDMENT IS ADOPTED:

The state will be prohibited from requiring localities to expend funds for any new or expanded portion of a program or responsibility unless the state provides the necessary funds for the localities to spend or unless the local legislative body agrees to provide its own funding for the new or expanded program or responsibility.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 272 Yes, 62 No. (Resolution 105)

QUESTION NO. 3

BUDGET
FOOTNOTES

New Article: Pt. II, Art. 18-a.

3. Are you in favor of amending the Constitution to provide that no footnote or section of any budget bill before the Legislature shall contain any provision which establishes, amends or repeals statutory law, other than provisions establishing, amending or repealing operating and capital expenses for the executive, legislative and judicial branches of government?

Yes ☐

No ☐

AT THE PRESENT TIME:

The New Hampshire Constitution contains no provisions limiting or prohibiting the use of footnotes or sections in the operating or capital budget bills before the Legislature.

IF THE AMENDMENT IS ADOPTED:

All sections of all budget bills before the Legislature will contain provisions which relate only to the operating and capital expenses for the executive, legislative and judicial branches of government. The Legislature will be prohibited from inserting, in budget bills only, any other footnote or section which establishes, amends or repeals general law.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 301 Yes, 34 No. (Resolution 60)

QUESTION NO. 4

SIZE OF
LEGISLATURE

Articles Affected: Pt. II, Arts. 9, 25 and 37

4. Are you in favor of amending the Constitution to change the size of New Hampshire's legislative bodies without changing the total number of legislators by decreasing the current size of the House of Representatives by 12, to 388 members, and increasing the current size of the Senate by 12, to 36 members?

Yes ☐

No ☐

AT THE PRESENT TIME:

The Constitution provides that the number of representatives to be chosen biennially (every 2 years) for the House of Representatives shall be not less than 375 nor more than 400. The exact number is determined by law. Four hundred members are now chosen biennially for the House. The Constitution also provides that the Senate shall consist of 24 members, that not less than 13 members shall constitute a quorum, and that, when fewer than 16 senators are present, the assent of at least 10 of them is necessary for its action to be valid.

IF THE AMENDMENT IS ADOPTED:

The House of Representatives will be reapportioned in the next legislative session to provide for 388 members to be chosen biennially starting in 1986, and the Senate will be reapportioned to provide for 36 members to be chosen biennially starting in 1986. However, the total number of legislators chosen biennially will be limited to the current 424. Nineteen members will constitute a quorum in the Senate, and when fewer than 24 senators are present, the assent of 15 will be necessary for its action to be valid.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 270 Yes, 76 No. (Resolution 161)

QUESTION NO. 5

ANNUAL
LEGISLATIVE SESSIONS

Articles Affected: Pt. II, Arts. 3 and 15

5. Are you in favor of amending the Constitution to provide for annual sessions of the Legislature; and to restrict mileage payments for actual attendance on legislative days to a maximum of 45 legislative days per session but not after the first day of July each year?

Yes ☐

No ☐

AT THE PRESENT TIME:

The Constitution provides that the Legislature shall assemble every other year and that the members of the Legislature shall receive mileage payments for actual daily attendance for 90 legislative days or until July 1 of that year, whichever occurs first.

IF THE AMENDMENT IS ADOPTED:

The Legislature will assemble every year; and mileage payments to members for actual daily attendance will be limited to 45 legislative days per year or until July 1 of each year, whichever occurs first.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 278 Yes, 76 No. (Resolution 166)

QUESTION NO. 6

AGE OF SENATORS AND
EXECUTIVE COUNCILORS

Article Affected: Pt. II, Art. 29

6. Are you in favor of amending the Constitution to reduce the age requirement for persons being elected to the office of state senator or executive councilor from 30 years of age to 25 years of age?
- Yes ☐
No ☐

AT THE PRESENT TIME:

The Constitution requires that persons elected to the office of state senator or executive councilor be 30 years of age.

IF THE AMENDMENT IS ADOPTED:

The age requirement for election to the office of state senator and executive councilor will be lowered to 25 years of age.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 279 Yes, 66 No. (Resolution 165)

QUESTION NO. 7

CRIMINAL INSANITY
PROCEEDINGS

Article Affected: Pt. I, Art. 15

7. Are you in favor of amending the Constitution to provide that, in order to commit a person in a criminal insanity proceeding, the state must establish that the person is potentially dangerous to himself or to others and suffers from a mental disorder by a standard of "clear and convincing evidence" only, rather than by the current, stricter standard of "proof beyond a reasonable doubt"?
- Yes ☐
No ☐

AT THE PRESENT TIME:

The Constitution does not explicitly address the issue of criminal insanity proceedings. However, the New Hampshire Supreme Court has ruled that, if the state wishes to commit a person acquitted by reason of insanity, the state must prove that the person suffers from a mental disorder and is potentially dangerous to himself or to others. The state must prove this by "proof beyond a reasonable doubt," which is the most difficult legal standard to meet.

IF THE AMENDMENT IS ADOPTED:

The Constitution will expressly state that in order to commit a person acquitted of a criminal charge by reason of insanity, the state must prove that the person suffers from a mental disorder and is potentially dangerous to himself or to others. However, the state will only need to prove this by clear and convincing evidence rather than by evidence beyond a reasonable doubt. This will be an easier burden for the state to meet and, in general, will make it easier for the state to commit to a mental health institution a person acquitted of a crime by reason of insanity.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 297 Yes, 35 No. (Resolution 109)

QUESTION NO. 8

RIGHT TO
TRIAL BY JURY

Article Affected: Pt. I, Art. 20.

8. Are you in favor of amending the Constitution to provide that, in order to entitle the parties to a trial by jury in civil cases, the amount involved in such cases must exceed \$5,000 instead of \$500 as is now provided? **Yes** ☐ **No** ☐

AT THE PRESENT TIME:

Only a person suing or being sued for an amount over \$500 has a right to have the case heard by a jury.

IF THE AMENDMENT IS ADOPTED:

Only a person suing or being sued for an amount over \$5,000 will have a right to have the case heard by a jury if this proposal passes.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 288 Yes, 60 No. (Resolution 12)

QUESTION NO. 9

GOVERNOR'S POWER
TO PROROGUE
THE LEGISLATURE

Articles Affected: Pt. II, Arts. 43 and 50.

9. Are you in favor of amending the Constitution to eliminate the power of the Governor and Council to prorogue (that is, to extend) a recess of the Legislature, without its consent, for up to 90 days? **Yes** ☐ **No** ☐

AT THE PRESENT TIME:

The Constitution provides that the Legislature may recess itself and the Governor and Council are authorized to extend a recess of the Legislature, without the Legislature's consent, for a period not to exceed 90 days.

IF THE AMENDMENT IS ADOPTED:

The power of the Governor and Council to extend a recess of the Legislature will be eliminated.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 251 Yes, 89 No. (Resolution 58)

QUESTION NO. 10

RETIREMENT FUNDS FOR PUBLIC EMPLOYEES

New Article: Pt. I, Art. 36-a.

10. Are you in favor of amending the Constitution to provide that all the assets of both the New Hampshire Retirement System and any other retirement system for public officers and employees operated by the state or its political subdivisions shall be used exclusively for the benefit of any such retirement system and shall not be diverted or used for any other purpose, and that the New Hampshire Retirement System or any successor system shall be fully funded each fiscal year as determined by sound actuarial valuation and practice?

Yes ☐
No ☐

AT THE PRESENT TIME:

There is no prohibition against the appropriation of retirement system funds for purposes unrelated to the retirement system. There is also no legal requirement that the state's contribution or that of any other employer participating in the New Hampshire Retirement System result in the full funding of the retirement system each fiscal year.

IF THE AMENDMENT IS ADOPTED:

The New Hampshire Retirement System moneys will not be able to be appropriated for any purpose unrelated to and not beneficial to the retirement system. All the assets and proceeds of the New Hampshire Retirement System will be used for purposes which benefit the retirement system. The retirement system will be fully funded by contributions each fiscal year.

This question is submitted to the voters by the 1984 Constitutional Convention by a vote of 300 Yes, 40 No. (Resolution 144)

The following 3 questions are submitted to the voters by the 1983 General Court on the votes indicated following each question.

EXECUTIVE COUNCILOR VOTES

QUESTION A

Article Affected: Pt. II, Art. 60.

- A. Are you in favor of amending the Constitution to change the date on which the votes for Councilors are laid before the House of Representatives and Senate to the first Wednesday following the first Tuesday in January? Yes ☐
No ☐

AT THE PRESENT TIME:

The Constitution requires the Secretary of State to present the results of the Governor's Councilors' elections to the Legislature on the first Wednesday in January following the biennial election. Until it was amended in 1974, the Constitution also provided that the Legislature would assemble on the first Wednesday in January. To avoid having to assemble the Legislature on New Year's Day if it fell on a Wednesday, the 1974 amendment changed the day on which the Legislature was to meet to the first Wednesday after the first Tuesday in January. When this amendment was adopted, however, no change was made in the provision for the time at which the Secretary of State was to present the election results for Governor's Councilors to the Legislature.

IF THE AMENDMENT IS ADOPTED:

The day on which the Legislature assembles and the day on which the Secretary of State presents the election results for Governor's Councilors to the Legislature will be the same. The Secretary of State will present the election results on the first Wednesday after the first Tuesday in January.

This question is submitted to the voters by the 1983 Legislature on votes of 300 to 0 in the House of Representatives and 21 to 0 in the Senate. (CACR 3)

QUESTION B

GUBERNATORIAL SUCCESSION

*Articles Affected: Pt. II, Arts. 49 and 85.
New Article: Pt. II, Art. 49-a.*

B. Are you in favor of amending the Constitution to provide that in the event of a vacancy in the office of Governor or the incapacity of the Governor to perform his duties, the President of the Senate, Speaker of the House, Secretary of State and State Treasurer, in that order, shall be Acting Governor until the vacancy is filled or the incapacity removed; that if a vacancy in the office of Governor for the remainder of the Governor's term occurs before the commencement of the last year of his term, a special election for Governor shall be held; that the incapacity of the Governor shall be determined by his written declaration or by judgment of the Supreme Court; that the office of Governor may be declared vacant by the General Court when the Governor or Governor-elect has been incapacitated for a period of 6 months; and that a Justice of a New Hampshire court shall administer the oath of office to the newly-elected Governor?

Yes ☐
No ☐

AT THE PRESENT TIME:

The Constitution provides that in the event of a vacancy in the office of Governor, the President of the Senate, Speaker of the House, Secretary of State, or State Treasurer, in that order, shall exercise the office of Governor. Any official exercising the office of Governor shall not at the same time function in the office for which he was elected. Also, the oath of office of the Governor is taken before the President of the Senate.

IF THE AMENDMENT IS ADOPTED:

The President of the Senate, Speaker of the House, Secretary of State or State Treasurer, in that order, will become Acting Governor in the event of a vacancy in the office of Governor or the incapacity of the Governor to perform his duties, and will hold that position until the vacancy is filled or the incapacity is removed. While acting as Governor, the officer's capacity to serve in his previous office will be suspended. If a vacancy occurs in the office of Governor before the last year of his term begins, a special election for Governor will be held. The incapacity of the Governor to perform his duties will be determined by his written declaration or by judgment of the Supreme Court. Whenever the incapacity of the Governor or Governor-elect continues for a period of 6 months, the Legislature may declare the office of Governor vacant. Also, the oath of office of the Governor will be taken before a Justice of a New Hampshire court.

This question is submitted to the voters by the 1983 Legislature on votes of 257 to 83 in the House of Representatives and 21 to 1 in the Senate. (CACR 9)

QUESTION C

GOVERNOR'S TERM
OF OFFICE

Article Affected: Pt. II, Art. 42

C. Are you in favor of amending the Constitution to provide for electing the Governor every four years, with a limitation of two consecutive terms?

Yes ☐
No ☐

AT THE PRESENT TIME:

The Constitution provides for the election of the Governor every 2 years. There is no limit on the number of consecutive terms a person may be elected Governor.

IF THE AMENDMENT IS ADOPTED:

Beginning with the November 1986 election, the Governor will be elected to a 4-year term. Although no person will be restricted as to the number of nonconsecutive terms he may serve as Governor or as to the total number of terms he may serve as Governor, no person will be allowed to serve more than 2 consecutive terms as Governor.

This question is submitted to the voters by the 1983 Legislature on votes of 282 to 57 in the House of Representatives and 17 to 6 in the Senate. (CACR 2)